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REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

An analytical summary of comments received by the Secretary-General on the Draft programme of action for prevention of sale of children, child prostitution and child pornography

Report of the Secretary-General

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INTRODUCTION

1. The Commission on Human Rights on 7 March 1990 adopted, without a vote, resolution 1990/67 entitled "Programme of action for prevention of sale of children, child prostitution and child pornography", by which it decided to transmit to Governments specialized agencies and non-governmental organizations the draft programme of action for their comments.

2. Accordingly, a note verbale was sent to Governments and a letter was sent to specialized agencies, intergovernmental organizations and non-governmental organizations on 4 May 1990.

3. By 31 December 1990, replies to the request for information were received from the following States: Bahamas, Bahrain, Burkina Faso, Cameroon, Chad, Colombia, Egypt, Greece, Iraq, Madagascar, Mexico, Norway, Pakistan, Paraguay, Qatar, Senegal, Sweden, Tunisia, Ukrainian Soviet Socialist Republic and Uruguay.

4. Comments on the draft programme were also forthcoming from the following United Nations organs, specialized agencies and intergovernmental organizations: International Labour Organisation, Food and Agriculture Organization, Office of the United Nations High Commissioner for Refugees, Universal Postal Union, World Bank, World Tourism Organization, Association of South East Asian Nations, Council of Europe, European Parliament, International Criminal Police Organization, Organization of American States, Organization of the Islamic Conference.

5. In addition, responses were forwarded from the following non-governmental organizations: Anti-Slavery Society, Asian Cultural Forum on Development, Association Mondiale des Amis de l'Enfance, Christian Children's Fund Inc., Defence for Children International, International Abolitionist Federation, International Catholic Child Bureau, International Commission of Jurists, International Federation-Terre des Hommes, International Fellowship of Reconciliation, International Save the Children Alliance, International Union of Socialist Youth, Inter-Parliamentary Union, Pax Christi, Women's International Democratic Federation, World Assembly of Youth, World Association of Children's Friends, World Movement of Mothers, and World Muslim Congress.

6. By its resolution 1990/67, the Commission on Human Rights also requested the Secretary-General to submit an analytical summary of the responses received and decided to examine the draft programme of action along with that report, which is contained in the present document; the full text of the draft programme of action is annexed hereto.

7. Moreover, as requested by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1990/30 operative paragraphs 8 and 9, the information and proposals relating to this programme of action which were supplied to the Working Group on Comtemporary Forms of Slavery at its fifteenth session, have also been included in this analytical summary.

8. Finally, should further comments on the programme of action be forthcoming, they will be published in addenda to this document.

I. BACKGROUND

9. Before elaborating on the reactions received to the programme of action, it may be of value to set out the initiatives which resulted in its development and to convey an idea of its situation within the continuing process of efforts in this field.

10. The Commission on Human Rights, in its resolution 1989/35, endorsed Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1988/31 which had approved the programme of work of the Working Group on Contemporary Forms of Slavery for the period 1989-1991.

11. This programme of work (which is contained in E/CN.4/Sub.2/1988/32) included three main themes to be discussed in successive years: prevention of the sale of children, of child prostitution and of child pornography (1989); eradication of the exploitation of child labour and of debt bondage (1990); and prevention of traffic in persons and of the exploitation of the prostitution of others (1991).

12. The Working Group on Contemporary Forms of Slavery, having examined at great length the main theme of the 1989 session, concluded that urgent action was required to prevent these abuses and proposed a Programme of action for prevention of sale of children, child prostitution and child pornography.

13. The view that a concerted programme of action should be adopted to counteract these abuses was endorsed by the Sub-Commission in its resolution 1989/43 and by the Commission on Human Rights in its resolution 1990/67.

14. Parallel and complementary to the formulation of this programme of action, the Working Group on Contemporary Forms of Slavery in 1989 recommended the appointment of a Special Rapporteur of the Commission on Human Rights to consider matters relating to the sale of children, child prostitution and child pornography, including the adoption of children for commercial purposes.

15. In this connection, Mr. Vitit Muntarbhorn of Thailand was appointed on 1 August 1990, for a period of two years, as Special Rapporteur of the Commission on Human Rights in accordance with, inter alia, Commission on Human Rights resolution 1990/68 and Economic and Social Council resolution 1990/240 to consider matters relating to the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes. The Special Rapporteur was requested to submit a comprehensive report on his activities relating to these matters, including the frequency and extent of such practices, as well as his conclusions and recommendations.

16. The Special Rapporteur is expected to present his preliminary report on these matters at the forty-seventh session of the Commission on Human Rights in 1991. The report will be contained in document E/CN.4/1991/51, the contents of which will undoubtedly have a direct bearing on the concerns being addressed in the draft programme of action presently under consideration.

17. As the main theme discussed in 1990 by the Working Group on Contemporary Forms of Slavery was child exploitation and debt bondage, it is of interest to note that the Working Group, in August 1990, adopted a draft programme of action for the elimination of the exploitation of child labour which, having

been approved by the Sub-Commission, now requires the endorsement of the Commission on Human Rights. As a form of exploitation of child labour, energetic repressive action was called for in the eradication of child prostitution, child pornography and trafficking in children for immoral purposes.

18. Concerning the future subjects to be discussed by the Working Group on Contemporary Forms of Slavery, the main theme to be discussed in 1991 will be prevention of the traffic in persons and the exploitation of prostitution. Within the recommendations adopted by the Working Group at its fifteenth session in 1990, it was decided that the Working Group would consider within its main theme of 1991 the allegations concerning the trafficking in organs and that it invite the participants of the Working Group to reflect on concrete proposals which might be formulated for a possible programme of action on the issue of the prevention of the trafficking in persons and the exploitation of the prostitution of others. In this regard, any recommendations forthcoming from the meeting in 1991 may again be of value to the deliberations on possible future action for the prevention of child prostitution.

19. The deep concern being expressed about the information on world-wide occurrences of the sale of children, child prostitution and child pornography and the call for measures to prevent these practices by United Nations human rights bodies, should, in turn, be viewed in conjunction with the greater international attention focused on children's rights in general.

20. At the regional level, the Council of Europe, in turn, indicated that a draft recommendation on the matters of sexual exploitation prepared by the Select Committee of Experts on Sexual Exploitation, Pornography and Prostitution of, and Trafficking in, Children and Young Adults is to be submitted for approval to the European Committee on Crime Problems in June 1991 and, if approved, would require adoption by the Committee of Ministers in autumn 1991.

21. Although the draft recommendation has not yet been finalized it would appear that in many respects its contents bear a resemblance to the priorities being suggested in the United Nations draft programme of action. In this regard, it was indicated that the draft recommendation covers the following aspects:

- general measures (consciousness-raising, education, information, collection and exchange of data, prevention, detection, assistance, penal law and criminal procedure);

- measures concerning child pronography;

- measures concerning prostitution of children and young persons (prevention, law enforcement, assistance);

- international co-operation;

- research priorities.

The opening for signature of the Convention on the Rights of the Child on 26 January 1990 and its rapid entry into force on 2 September 1990 attest to the greater commitment to promote and protect children's rights at the international level.

22. The wide scope of the Convention on the Rights of the Child, which was drafted in an open-ended Working Group of the Commission on Human Rights, aims to protect children from maltreatment and exploitation as well as to provide them with certain rights and services. Thus, the Convention contains provisions which require, inter alia, action by States parties to prevent sexual exploitation (art. 34), sale and trafficking and abduction (art. 35) and to ensure that in inter-country adoption, the placement does not result in improper financial gain (art. 21 (d)).

23. The organization of the World Summit for Children, not only acted as an impulse for the international support rendered to the Convention on the Rights of the Child but also set down further elements for improving the protection of children in especially difficult circumstances, which have a bearing on the problems of sale of children, child prostitution and child pornography. (The text of the World Declaration and its Plan of Action is contained in document E/CN.4/1991/59.)

24. The visible interest directed to the United Nations draft programme of action, the Convention on the Rights of the Child and the Declaration and Plan of Action emanating from the World Summit for Children seem to signal the stronger global commitment that exists to improve the situation of the world's children, especially of the most vulnerable.

II. ANALYTICAL SUMMARY OF COMMENTS RECEIVED ON THE TEXT OF THE DRAFT PROGRAMME OF ACTION FOR PREVENTION OF SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

A. General: paragraphs 1 and 2

25. Generally, the comments received on the contents of these two paragraphs were reflective of the widespread support and enthusiasm existing for improving the application of the measures required to prevent such abuse of children.

26. Within the parameters of the general preambular paragraphs several additional ideas were offered for inclusion.

27. For example, many replies spoke of the commitment to the protection of the child. The Government of Chad's comments, in particular, asserted that the higher interest of the child should always govern every decision and guide the efforts being undertaken at all levels where they affect the child. Moreover, with regard to the problems which the programme is designed to prevent, it was suggested, inter alia, that the State should systematically discourage the exercise of all customs, traditions and cultural practices which encourage prostitution.

28. A similar comment was conveyed by non-governmental organizations which expressed the wish to see a reference, within the wording of the first general paragraph, to the need for States to accord a clear commitment to tackling the deeply rooted societal problems causing sexual exploitation, especially when they are linked to cultural practices and customs.

29. Expressing a preference for further clarification in order to avoid any misunderstanding as to whom the draft programme is designed to protect, the Government of Greece suggested that the definition of the child needed to be made clear in the text of the draft programme.

30. Many responses welcomed and insisted upon the relevancy of the contents of the draft programme of action to both developing and developed countries. In this regard, the interrelationship between the resources available to a country and its ability to implement programmes was repeatedly mentioned. It was made clear that these comments were a reflection of existing realities and were not meant to imply a lack of commitment to the draft programme's aims.

31. To meet the concerns of a vast number of replies from governmental, intergovernmental and non-governmental organizations, it may be appropriate to include a reference to the socio-economic realities facing each country within the all-embracing general paragraphs. In this regard the suggestion of the Ukrainian Soviet Socialist Republic may be taken into consideration. This reply indicated that the preamble to the draft programme does not sufficiently make clear that one of the priority tasks which would contribute significantly to the eradication of the sale of children, child prostitution and child pornography would be to reduce and, in the long term, eliminate the socio-economic imbalance existing between industrialized States and many developing countries.

32. As a possible addition to the introduction to the draft programme, the Government of Qatar in its reply emphasized that prostitution constitutes a form of slavery and that the pain it causes is incompatible with human dignity and values and jeopardizes the welfare of individuals, families and society as a whole.

33. Following this statement, the Government of Qatar called for the intensification of co-ordination and co-operation among all actors and supported the inclusion of references to the International Labour Organisation, World Health Organization and the World Tourism Organization in these endeavours.

34. Most other States, in indicating their general agreement with the contents of paragraph 2, also stressed that co-operation with, inter alia, the various branches of the International Labour Organisation; United Nations Centre for Social Development and Humanitarian Affairs as it deals with women, drug abuse and youth-related matters; United Nations Educational, Scientific and Cultural Organization; Office of the United Nations High Commissioner for Refugees; World Health Organization; World Tourism Organization; International Criminal Police Organization (Interpol) and non-governmental organizations is necessary to ensure the most effective co-ordination of the programme of action.

35. Supplementing the suggestions emanating from the replies from States to paragraph 2, both the International Labour Organisation and the Office of the United Nations High Commissioner for Refugees requested that a reference to their organizations should be included in the draft text on inter-agency co-operation. Elaborating on this matter, the International Labour Organisation expressly confirmed the linkage between child exploitation and poverty and their work on, inter alia, child labour, women, employment, structural adjustment and the rural and informal sectors, which are central in any attempt to eradicate the root causes of exploitation. It also emphasized that it is prepared to assist in the promotion and implementation of the measures identified in the programme of action.

36. Offering further encouragement to the United Nations draft programme of action calls for further co-operation at the international, regional and national levels. The Council of Europe indicated that the draft recommendations elaborated by its committee of experts on the subject of sexual exploitation, prostitution and pornography are inspired by the same ideals and promote the same objectives and similar strategies as the United Nations draft programme of action.

37. Additionally, the Council of Europe in its reply drew attention to the observation that in the last few years the problems of the sexual exploitation of youths had acquired a disturbing new dimension on account of the linkage between international crime, pornography, prostitution and traffic in children. This point was also repeated by a non-governmental organization.

38. Following on from the dimensions of the draft programme of action's subject-matter as related by the Council of Europe, the International Criminal Police Organization, in the information it presented, made reference to the current study it is conducting for the purpose of proposing measures to improve international co-operation in relation to offences committed against minors. It stated that it intends to convey its findings on this matter for discussion purposes to the Centre for Human Rights.

39. Several non-governmental organizations stressed the need for further co-operation and co-ordination generally and expressed the desire that a specific mention of the role of non-governmental organizations be incorporated within the co-ordinating function.

40. Additional suggestions by non-governmental organizations for co-operation and co-ordination methods were raised at the meetings of the fifteenth session of the Working Group on Contemporary Forms of Slavery in 1990. They included the view that a special task force be set up at the regional level, particularly in Asia, to assist Governments in devising ways and means of checking the phenomenon of child prostitution, and that the combating of children's and youths' prostitution problems should be planned through a national commission, with input coming from, inter alia, concerned non-governmental organizations and grass roots representatives who are well aware of the problem.

41. The International Abolitionist Federation offered further suggestions on the matter of co-ordination and the development of global action on these issues. These had been expressed in a resolution passed by its International Congress held in 1990. These proposals stated, inter alia, that the Congress

"Recommends to the Secretary-General of the United Nations that a unit should be created which would be charged exclusively with the responsibility of co-ordinating, in liaison with other United Nations organs and agencies, international institutions and non-governmental organizations, activities relating to the suppression of the traffic in persons and of the exploitation of the prostitution of others, and all other forms of sexual exploitation; and

"Urges the United Nations to adopt a Global Programme of Action (through the United Nations General Assembly) against sexual abuse and slavery on lines similar to that adopted on Drug Abuse and Illicit Trafficking ..."

B. Information and education: paragraphs 3 to 10

42. A wealth of replies were received in response to the contents of these paragraphs. While the value and necessity of developing information and education campaigns at all levels and for many sectors of society to prevent child abuse and sexual exploitation was presented, a variety of concerns were raised to assure their appropriateness and implementability.

43. Thus, replies to the contents of these paragraphs served to illustrate the possibilities and preferences for elaboration and change.

44. It would appear, therefore, that any decision to retain the paragraphs as they stand would entail the possible repetition of the aims of informational and educational measures in both paragraphs 3 and 6. The decision would, therefore, need to be taken as to whether or not to repeat the raison d'être of informational and educational campaigns and efforts in both paragraphs.

45. Alternatively, the suggestion by the Government of Colombia to link information and education activities together, preferring to offer separate and appropriate strategies designed for the community, family and child may be considered.

46. In addition, proposals for redesigning paragraphs 3 to 10 emerged from the comments received from the International Catholic Child Bureau which suggested the formation of two sections: an Information and Mobilization Section and an Education Section.

47. These two proposals from the Government of Colombia and the International Catholic Child Bureau are presented in full below.

48. The Government of Colombia stated, inter alia, that:

"It is undeniable that the situations referred to may be effectively prevented through information and education, both internationally and nationally, at three levels:

1. At the community level: by means of campaigns aimed at the entire population through the mass media, not only warning against the possible abuses of children, but also publicizing means of reporting such abuse and the programmes and services that States have at their disposal to protect its victims and punish those responsible. A suitable means of creating awareness in this area is the proposed proclamation of a World Day for the Abolition of Contemporary Forms of Slavery, perhaps on 2 December.

2. At the family level: There is a need to inform and educate parents about the responsibility involved in parenthood and the respect due to the child, so that he or she will never fall victim to exploitation, since in most cases exploitation is the work of the parents themselves. They will also be informed about the rights of children and the penalties laid down for violations of those rights. These actions in the field of information and education are carried out by both public and private bodies whose task is to protect children and the family.

3. As regards the child: States' education systems should introduce into formal curricula the inculcation of values such as self-esteem, respect for any protection of the integrity of the child's own body, and, generally, the passing on of all the principles which go to make up a code of ethics. Also of importance is the subject of sex education, which prepares the child physically and mentally to cope with attacks he or she may suffer in this regard. Special stress in these curricula should also be placed on teaching the rights of the child, particularly those set forth in the Convention adopted by the United Nations and in the domestic legislation of each State."

49. The International Catholic Child Bureau stated that:

"Information and Education. 'Education' in this section seems to mean only information to groups about the problem and not the education (formal or information) of children sold or in prostitution. We suggest that this section be called 'Information and Mobilization' and put 'education' in a section apart. The paragraphs of the two sections would then read as follows:

3. The international and national information campaigns should aim to break taboos surrounding these subjects. People who use culture and traditions to justify the keeping of children (often girls) in positions of slavery, have to be sensitized that these are violations of the child's inherent dignity and of the child's newly formulated rights as laid out in the United Nations Convention on the Rights of the Child. Religious groups would have a special role in this.

4. Studies and investigations should contain forward-looking strategies and step-by-step realistic approaches to alleviating the problems of these children.

5. As it stands.

6. 'Specific groups': add 'especially children'.

7. Put in new proposed section on education.

8. Follows on from 6.

9. Drop in light of new 'Education' section or keep if this proposal is not accepted.

10. As it stands.

Education (New section proposed by ICCB)

1. UNESCO is to be urged to develop non-formal education programmes which reach out to children not in school, i.e. those usually vulnerable to the problems under discussion here, notably, street children and children of very poor families both rural and urban.

2. Many agencies, both governmental and non-governmental, are already developing appropriate education programmes for these children. A compilation or series of profiles by UNESCO on these projects with guidelines for approaching the problem or evaluations of particularly successful projects would be helpful.

3. Inter-agency co-operation on the education of these children in the light of the Jomtien meeting on Education for All (March 1990) should be maximized.

4. Use here No. 7 of the 'Information' section."

50. Setting these proposals aside, further comments received are indicated below.

Paragraph 3

51. With regard to the paragraph's proposal that an international information campaign should be developed, this was widely embraced by most States.

52. It was the view of many States, however, that such an initiative should mention that it is directed not only at the general public but also at specific groups, including children.

53. In the Government of Mexico's reply the groups targeted as requiring exposure to information campaigns included parents, teachers and concerned professionals. It was further proposed that the contents of any message relayed to them and to society in general on the subject of child abuse should speak of the responsibility of educating children and maintaining within the family an atmosphere of harmony and communication in which the child will have the confidence to discuss with them any abuse to which he or she has been subjected.

54. The Government of Sweden's reply to paragraphs 3 to 10 raised two possibilities for change by suggesting that information should be directed towards men and that several alternative channels such as travel agencies and the military can be used as tools in the dissemination of information.

55. Other suggestions outlined as to the uses of information campaigns included an idea from the Government of Senegal that:

> "An international information campaign would help ... to end the taboos and tear down the curtain of silence generally surrounding such issues. Authorities responsible for combating such acts could tell about their work and acquaint the general public with the daily horrors which are being experienced and which they are obliged to hush up for fear of scandalizing and shocking people".

56. From the inter-governmental level, the International Criminal Police Organization (Interpol) indicated its willingness to contribute to an international information campaign, possibly through the circulation of model prevention campaigns to its member countries. The possibility of co-operating in the production of police television programmes in Europe to relate important cases of traffic in human beings and sexual exploitation of minors was also raised.

57. Non-governmental responses to the contents of paragraph 3 included the preference expressed by the Women's International Democratic Federation for the deletion of the word "lay" and the insertion of the words "non-governmental organizations, including women's organizations". A point related to non-governmental organizations' input was also expressed by the Christian Children's Fund Inc.

Paragraph 4

58. Reflecting the linkage between the launching of an international information campaign as per paragraph 3 and the exchange of information as proposed in paragraph 4, the Government of Paraguay considered the desirability of establishing an international information system to be the first action that should be taken in the context of an international information campaign.

59. On a related note, the necessity of ensuring the systematic exchange of information on child exploitation was suggested by the International Abolitionist Federation.

60. With regard to specific changes to be made in paragraph 4, the Government of Greece suggested that words such as the following should be added to the last line of the paragraph: "..., without, of course, disclosing the names of the children victims involved."

61. The World International Democratic Federation suggested that after the words "organization at the" and before the word "national" the word "Local" should be inserted.

Paragraph 5

62. As regards the suggestion that a World Day for the Abolition of Contemporary Forms of Slavery should be proclaimed, the Governments of, inter alia, Burkina Faso, Colombia and Senegal expressed their strong support for this suggestion.

63. In its reply, the Government of the Ukrainian Soviet Socialist Republic offered an alternative date, 1 June, International Child Protection Day, to promote the campaign against the sale of children, child prostitution and child pornography.

64. The Swedish Government, however, questioned the usefulness of such proclamations, offering the opinion that the gravity of the issue requires that it be dealt with from a long-term perspective and that information and educational programmes should be provided on a continuous basis and not only on a World Day.

65. With regard to other related initiatives designed to focus attention on children's issues within a specific timeframe, the reply from the Government of Egypt revealed that the President of the Republic had designated the 1990s as the Decade for the Care and Protection of Egyptian Children and that the Government agencies concerned with children have prepared appropriate plans to achieve the objectives of this Decade.

66. In a similar vein, it may also be of value to take into account the recommendation adopted by the Working Group on Contemporary Forms of Slavery at its fifteenth session in 1990, which called for effective action to make the 1990s the decade for the elimination of the most odious forms of slavery, such as apartheid, and contemporary forms of slavery affecting particularly vulnerable groups such as the sale of children, prostitution, exploitation of child labour, traffic in persons and the use of children in armed conflicts or as agents for organized crime or drug trafficking.

67. Several non-governmental organizations also offered strong support for the suggestion that a World Day for the Abolition of Contemporary Forms of Slavery be proclaimed.

Paragraphs 6 to 10

68. Many of the concerns previously raised within the context of the aims of an international information campaign were once again aired in relation to the objectives of educational measures and programmes.

69. As specific groups were clearly mentioned in the text of paragraph 6 of the draft programme of action, the necessity of educating families and children to prevent abuse was particularly highlighted and encouraged by various States.

70. The Government of Chad on the subject of education stated that:

> "The State should take special measures to ensure that gifted handicapped children at all social levels have equal access to education ...".

71. The Government of Paraguay offered its own ideas on the proposals suggested in paragraph 7, indicating that it looks favourably on the possibility of the launching of an educational programme covering all aspects of the protection of children and that study programmes should provide specialized teaching for particularly vulnerable groups: the disabled, the exceptional, the abandoned, those in physical or moral danger, victims of crime, etc.

72. Well disposed to the development of educational measures outlined in paragraph 6, the Government of Senegal indicated, however, as regards the contents of paragraphs 7 and 8, that it is the State's right to determine the contents of educational programmes taking into account each country's socio-cultural characteristics, and so was well in agreement with the wording of paragraph 8.

73. The Government of Sweden suggested that the education measures planned within paragraph 6 should also aim at improving equality between men and women.

74. The World Movement of Mothers and the Women's International Democratic Federation felt strongly about the need to educate parents and to develop a well-thought-out family policy to prevent child abuse. It was suggested by one non-governmental organization that a separate paragraph should be dedicated to focus attention on this point.

75. On specific changes proposed to the wording of paragraph 7 the Government of Greece indicated its preference for the insertion of the following words: "alcohol, smoking and drug consumption" in the fourth line, after the word "AIDS".

76. The International Federation-Terre des Hommes wished to add the following sentence at the end of paragraph 7:

> "Such programmes may also make use of the mass media or of novel and close-to-people methods such as street theatre."

77. The Christian Children's Fund expressed strong views on the contents of paragraphs 6 and 7 and suggested that they would be improved if they incorporated the following ideas; firstly, the "achievement of universal primary education with special emphasis for girls and accelerated literacy programmes for women" as proposed in UNICEF's goals for children and development in the 1990s, and, secondly, that a vocation-oriented form of formal and/or non-formal education is what education planners should take pains to design at any cost.

78. Regarding the contents of paragraph 9, the Government of Senegal indicated its general approval for such action while drawing attention to the fact that the phenomenon of street children differs according to the socio-economic context within a given country.

79. The World Association of Children's Friends stated that

> "We do not consider paragraph 9 - concerning the education of street children - very realistic. Unfortunately, these children are by definition hostile to any upbringing jointly with others. More suitable ways of approaching them should be explored, for example, on the occasion of group apprenticeship or group entertainment - activities which give those in charge of them a certain technical authority accepted by the children".

C. Social measures, development assistance: paragraphs 11 and 12

80. Many Governments in their replies laid stress on the prevalence of poverty as a major contributory factor in the continued existence of harmful exploitative practices and offered a variety of suggestions to ameliorate the present situation in this regard.

81. Conscious of this reality, the Government of Colombia in its reply stressed that States facing such problems should take the policy decision to give priority attention to high risk children and to tackle poverty in the environment in which such children are growing up.

82. The Government of Senegal expressed its agreement with the contents of paragraph 11. Presenting its views on the matter it was stated that

> "Need creates difficult situations for particularly poor families (and) that is why it is necessary to include a social component in any development programme; the mother-child parameter, especially in the case of the poor, should receive special attention in development projects".

83. The Government of Tunisia, for its part, proposed that the programme of action would benefit from offering concrete measures to contribute to the elimination of poverty and so prevent the incidence of such practices. In this respect, the inclusion of references to the roles of the United Nations Children's Fund and the United Nations Development Programme and the advantages to be gained from educational efforts and employment projects was suggested.

84. As a sign of intergovernmental awareness of these concerns, the World Bank explained that while Commission on Human Rights resolution 1990/67 does not directly fall within the Bank's sphere of competence, there are a number of Bank activities which support its objectives, in particular assistance aimed at reducing poverty and improving the economic contribution of women in developing countries.

85. Similarly, the International Labour Organisation's comments indicate its strong support on these matters as it stated, inter alia, that:

> "The International Labour Organisation from its very beginning has been promoting anti-poverty and employment-orientated measures as an integral part of development policy. In recent years the Office has devoted special attention to the improvement of the social and economic status of women."

86. In view of the comments submitted by the World Bank, it may be pertinent to point out that one non-governmental organization suggested that mention should be made of the role and responsibility of the International Monetary Fund and the World Bank with regard to promoting appropriate development strategies and policies, within the context of paragraph 11.

87. Another change proposed to the text of paragraph 11 suggested that a reference to girls should be inserted before the words "women" in the seventh line, while the words "by vulnerable mothers" should be deleted from the eighth line.

88. Offering its thoughts on matters which relate to the contents of paragraphs 11 and 12 but which could equally find a place elsewhere within the proposed draft programme of action, the Government of Burkina Faso stated that:

> "While supporting the Commission on Human Rights in its efforts for effective application of the programme of action, Burkina Faso suggests the formation of an international follow-up and evaluation committee, along with similar national committees, as well as the launching of a campaign to make international agencies more aware of the need for attaching greater importance to the implementation of this programme by increasing the financial resources for development assistance programmes in the field of rehabilitation and socio-economic reinsertion of street children and of young people in trouble in developing countries".

89. Several replies from both Governments and non-governmental organizations to the contents of paragraph 12 spoke of the projects under way or being studied with regard to assisting children and the Government of Paraguay indicated that preventive measures should be taken in both the public and private sectors to ameliorate the problem of street children.

90. Finally, with regard to specific changes to the text of paragraph 12, it was proposed by the Government of Greece that the words "mobile units to offer social and medical aid" should be inserted immediately after the abbreviation "e.g." and that the phrase "and, in general, improve the social, economic and working conditions of parents whose children are victims of sexual exploitation or at social risk" should be added to complete the paragraph.

D. Legal measures and law enforcement: paragraphs 13 to 16

91. From a purely editorial point of view the wording of the first sentence of paragraph 16 requires changing.

92. With regard to the contents of paragraphs 13 to 16, the general importance of work being undertaken or that would need to be undertaken at the national level for the implementation of the provisions of the Convention on the Rights of the Child and the draft programme of action's provisions was emphasized by various States.

93. Many States also gave a detailed account of the implementation and other measures already in force nationally to prevent sexual exploitation and trafficking and of the penalties such breaches in the law elicited. Such information, in full, may be contained in documentation to be presented to the sixteenth session of the Working Group on Contemporary Forms of Slavery.

94. Particular changes to the wording of paragraphs 13 to 16 included the suggestions from the Government of Greece that the words "seized and" should be inserted before the word "confiscated" in the last line of paragraph 15; and that the second sentence of paragraph 14 should be deleted and replaced with the sentence "Efforts should be made to detect, arrest, and convict consumers and procurers, and provide for more severe penalties." Still focusing on the contents of this sentence, the concern was expressed by the Government of Sweden over the use of the expression "more severe penalties". It was indicated that a preference would be for the use of a phrase common to the texts of international instruments such as "sanctions which take into account the grave nature of these offences".

95. The Government of the Ukrainian Soviet Socialist Republic, in giving expression to the wider recognition that those individuals and organizations that benefit financially from the exploitation of children are guilty of criminal offences, suggested that these questions should be more fully discussed at the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders and that it would be appropriate for this programme of action to include a recommendation that the IXth United Nations Congress on the Prevention of Crime, to be held in 1995, should study this problem in greater depth.

96. The International Labour Organisation in its reply suggested that the Commission on Human Rights might wish to make a direct reference in these paragraphs to the International Labour Organisation's Conventions pertaining to the employment of children by calling on countries to adopt the Convention on minimum age and to ensure effective enforcement of laws which prohibit the employment of children in work which is likely to endanger the morals of children.

97. With reference to the means by which to monitor and implement children's rights nationally, information offered by the Inter-Parliamentary Union mentioned the urgency of establishing ombuds institutions for children.

98. Another non-governmental organization offered a minor change to the text of paragraph 13. It was suggested that the word "draft" should be inserted on the second line before the words "strengthened and better enforced".

E. Rehabilitation and reintegration: paragraph 17

99. As regards this paragraph's contents, several States emphasized the importance of such measures and proceeded to indicate the action they had taken in this regard.

100. The Government of Greece, in its reply, suggested that the words "should be established or strengthened by giving them" should be inserted before the words "the necessary support".

101. Comments from non-governmental organizations to this paragraph's contents indicated the need to include a specific reference to women's organizations after the word "agencies", as well as expressing the belief that the last phrase of the last sentence would benefit from being even more explicit and so could read "should request technical assistance, evaluational assistance, new methods of self-funding schemes, etc., from public or private groups, national or international, with the relevant competence."

F. International co-ordination: paragraph 18

102. In its reply the Government of Colombia stressed the value of such co-ordination by means of treaties or, as proposed in the programme of action, with the support of international law enforcement agencies in order that persons having participated in such abuse should not escape from the penalties laid down in domestic legislation by leaving the country in which they had committed an offence.

103. The particular suggestion forthcoming from the Government of Greece on this matter was that the words "exchange information" should be inserted on the third line of this paragraph before the words "and report to Interpol".

104. Interpol indicated in its reply that it plans to improve the system used by its member countries to report cases of all the types of traffic in human beings covered by this draft programme of action.

G. Sale of children: paragraphs 19 to 21

105. Several States expressed their awareness of the need to take effective legal and administrative measures to prevent the abduction and sale of children by detailing the legislative and other measures in force or being introduced to prevent or penalize the trafficking and sale of children, particularly with regard to the phenomenon of adoption.

106. The Government of Colombia stated in this respect that it would be desirable for States to include in the convention on international adoption currently under consideration by The Hague Conference on Private International Law a provision placing an obligation on States to classify trafficking in children and illegal adoption offences as serious offences.

107. From its field of concern, the Office of the United Nations High Commissioner for Refugees suggested that emphasis should be placed on the special situation of refugee children and their need for protection particularly with regard to the sale of children and child prostitution, and that a reference to efforts to trace family members of unaccompanied refugee children and measures to facilitate the family reunification of these children should be included within the content of paragraph 21.

108. Several non-governmental organizations expressed their concern at the narrow definition seemingly given to the sale of children by the wording of these paragraphs. It was stressed that children are sold for the purposes of prostitution, child labour including bonded labour and domestic service, crime and begging, and organ transplant, and not just for adoption.

109. Other non-governmental organizations emphasized the measures which should be taken to ensure that no sale is involved in international adoption and the need for the promulgation of strict adoption laws. In this respect it might be appropriate to make mention of the work being undertaken at the present time by The Hague Conference on Private International Law on drafting an international convention on inter-country adoption and to the recommendation of the Working Group on Contemporary Forms of Slavery requesting that States be called upon to actively co-operate in its elaboration.

H. Child prostitution: paragraphs 22 to 25

110. Several Governments indicated their general agreement with the contents of these paragraphs. The Government of Sweden, however, expressed concern over the unclear wording of paragraph 22 and suggested that information about the social background of prostitution is probably more effective as a means of prevention than legislative action.

111. The Norwegian Government in its reply gave expression to its opinion that a large percentage of prostitutes had experienced incest or other forms of sexual abuse and so the importance of the family and other adults in preventing abused children from becoming prostitutes was underlined. It was suggested, therefore, that the importance of general measures against sexual abuse of children should perhaps be highlighted more explicitly in the programme.

112. On this very matter the Government of Greece suggested introducing a new paragraph on the issue of child prostitution which would read:

> "Incest and general sexual abuse within the family often leading to child prostitution should be detected early and dealt with by treating all parties involved. Legal action against the perpetrator would sometimes be necessary."

113. The Government of Chad on the issue of maltreatment of children stated that:

> "The State should take all appropriate legislative, administrative, social and educational measures to protect children against all forms of maltreatment. Such protection measures will include effective procedures for the establishment of social prevention and law enforcement programmes ...".

114. The Government of Senegal expressed its awareness of the issues raised by the promotion of tourism and wrote that:

> "The promotion of tourism often means a deterioration of morals. This aspect of the problem should be analysed and taken into account in any tourism policy, to prevent what often happens around tourist colonies."

Moreover, on the subject of a world conference, the Government of Senegal agreed with the suggestion and indicated that "there is need for such a conference, which would bring together all of the agents participating in social improvement and the prevention of delinquency".

115. The Secretariat of the World Tourism Organization in its reply questioned the benefits to be gained from the organization of a world conference within the terms suggested, as it may produce the opposite effect intended by promoting certain tourist destinations or refrain from mentioning the existence of similar practices in other, particularly developed, countries. As such, a preference was expressed for an expert technical meeting which would be designed to offer practical measures having first diagnosed a given situation.

116. In information proffered by the International Abolitionist Federation, attention was drawn to its Congress' resolution of 21 September 1990 which, inter alia, "invites the World Tourism Organization to give practical effect to the Tourist Bill of Rights and Tourist Code, particularly articles IV (e) and XI (2)(d) which are designed to prevent tourism being used for prostitution purposes."

117. The International Catholic Child Bureau expressed the need to rectify the imbalance in the impression conveyed by certain of the wording in the section which is suggestive that foreigners rather than local men are responsible for the high incidence of child prostitution.

118. Of the other non-governmental organizations making comments on the paragraphs' contents, it was suggested that Interpol's and the media's role in preventing child prostitution could be emphasized and outlined more fully. This point was also raised with regard to the phenomenon of child pornography and informational measures to be taken. See comments on paragraphs 3 to 10 and 26 to 29.

I. Child pornography: paragraphs 26 to 29

119. Information submitted by the Government of Senegal with regard to the contents of paragraph 26 pointed out, amongst other things, that if such activities were to be undertaken an enquiry into the matter domestically would also benefit from not only the services of the police and customs but also the involvement of social services which work and know the situation at the grass-roots level.

120. The Government of Sweden questioned the usefulness of enacting, and the difficulty of implementing, legislation which makes the possession of pornographic material illegal as suggested in paragraph 27. Being of the opinion that the actual sexual abuse of a child takes place when the pornographic material is being produced, it was suggested that effective measures should be taken to penalize the production and distribution of such material.

121. The reply from Interpol indicated that it might be appropriate to recommend that the consumption of child pornography be made punishable by law.

122. Interpol in its answer also suggested that within the context of paragraph 28, it may be stated that pornographic computer programmes should also be considered as a form of pornography.

123. Most of the comments received from non-governmental organizations to the contents of the child pornography-related paragraphs referred to paragraph 27. It was proposed, inter alia, that the act of buying child pornography should be made a criminal offence, and that legislation to prevent all forms of pornography should be introduced. A preference was also indicated for reorganizing the order of words in one phrase within this paragraph so that it would read "possess, produce or distribute".

124. With regard to the measures to be taken to prevent child pornography as suggested in paragraph 28 of the draft programme of action, the Norwegian Government is of the opinion that not only is it not feasible to require the postal service to detect and prevent the transmission of material containing child pornography but also it is questionable as to whether the postal service should decide what material to forward or withhold.

125. In relation to paragraph 28, the Universal Postal Union communicated that:

> "UPU statutory acts (Universal Postal Convention and Postal Parcels Agreement) do not provide for particular measures in the field referred to by the above-mentioned United Nations resolution.
>
> "It should be noted, however, that certain provisions prohibit the insertion of obscene or immoral articles in postal parcels. Those prohibitions could be utilized in the United Nations programme".

126. Accordingly, attention was drawn to the Universal Postal Convention of 1984, article 36, parts (e) and (f) of paragraph 4 which stipulated, inter alia, that the insertion in letter-post items of the following articles shall be prohibited:

"(e) obscene or immoral articles;

(f) articles of which the importation and circulation is prohibited in the country of destination."

127. Similarly, provisions of the Postal Parcels Agreement of 1984 were highlighted, article 19 of which states, inter alia, that:

"The insertion of the following articles shall be prohibited:

(a) in all categories of parcels:

...

(vii) obscene or immoral articles;

(viii) articles of which the importation or uttering is prohibited in the country of destination."

128. Several Governments in their replies noted the lack of regulations preventing children from having access or being exposed to pornography, especially through new technology.

129. The Government of Mexico in the comments it offered stressed that the distorted broadcasting of messages, together with subliminal inducement to sex and violence for commercial purposes, encourage children to adopt anti-social behaviour resulting in the violation of standards and values, and that it is essential to prevent such violations; but if they do occur, the standards and values must be re-established.

130. Offering information on recent measures undertaken on this matter, the Government of Colombia, in particular, explained that within new legislation implemented for the benefit of children responsibility has been placed on the mass media to, inter alia, prohibit broadcasts or publications which threaten the psychic or moral integrity of minors or contain unhealthy or pornographic descriptions, and mentioned the penalties laid down for breaching this law.

131. In information submitted by the European Parliament, it may be of interest to note that a resolution on violence against women, adopted on 11 June 1986, contained many elements relating to the prevention of trafficking, child abuse, prositution and pornography. On the subject of pornography, the resolution stated, amongst other things, that it:

> "Calls for a responsible attitude on the part of the media with regard to their portrayal of gender roles and of violence and calls on national authorities and bodies to involve women more closely in monitoring groups;

and that it

> "is concerned at the growing number of scenes of rape and indecent assault in modern video clips and calls on the media, in particular the makers of television programmes, to ban such clips from the television networks."

132. A non-governmental organization, the International Abolitionist Federation, in a similar vein called upon:

> "professional organizations of journalists and the directors of televisionchannels and radio stations, in conformity with article 17 of the Convention on the Rights of the Child, to develop appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of article 13 (freedom of expression), article 18 (parental responsibilities), article 34 (sexual exploitation) and article 35 (abduction and sale) ..."

133. The World Association of Children's Friends also expressed its concern about this matter and stated that it hoped that the draft programme of action would:

> "Also deal with the use of minors by cinema studios for roles in a sexual context. In that regard, we have for years been pressing the Council of Europe for the textual improvement and rigorous implementation of the provisions of article 7, paragraph 10, of the European Social Charter, which reads as follows: 'The contracting parties undertake ... to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.'"

Annex

Programme of action for prevention of sale of children, child prostitution and child pornography

A. GENERAL

1. To prevent the sale of children, child prostitution and child pornography, concerted measures are called for at the national and international level, including information, education, assistance and rehabilitation, legislative measures and a strengthening of law enforcement in this field. Co-ordinating agencies should be appointed or established at the national, regional and global level.

2. At the global level, co-ordination of the Programme of Action should be carried out by the Centre for Human Rights in co-operation with other sections of the United Nations Secretariat, including the Centre for the Advancement of Women, and with concerned intergovernmental agencies, in particular with UNICEF and UNESCO. Co-operation should also be established with Interpol.

Information and education

3. An international information campaign to raise public awareness of these abuses should form part of the Programme. Religious and lay organizations should be encouraged to participate. The media should also be called upon in order to help break the practice of silence surrounding these issues, while avoiding sensationalism. Law enforcement agencies should be given a significant role in this campaign.

4. To improve the sources of information, studies and investigations of these abuses should be undertaken by public and private institutions. The outcomes should, wherever possible, be made public and exchanged between governmental and non-governmental organizations at the national and international level.

5. To provide a focus for the campaign, a World Day for the Abolition of Contemporary Forms of Slavery might be proclaimed. One possibility is to use the date of 2 December, the anniversary of the adoption of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

6. Special educational measures should be adopted, to be directed both at the general public and to specific groups. The education should be based on universally agreed ethical principles, including the recognition of every child's fundamental right to the integrity of its own body. Emphasis should be placed on the damaging effects which these abuses have on children, ways in which the abuses can be prevented, discovered and exposed, and ways to assist children who have suffered from such abuse.

7. Preventive educational programmes at the primary and secondary level should make the children understand the dangers of these abuses, including the health dangers such as AIDS, and make them aware of their own right to the integrity of their body and thereby strengthen their defence against abuses.

8. Such education must avoid underplaying the issues but should also avoid sensationalizing them. Great care must be taken in developing educational programmes on these subjects. The age of the children concerned and the culture in which the children are living must be taken into account.

9. For street children, who are particularly affected by these practices, alternative educational programmes should be developed.

10. Social workers, health workers, members of law enforcement agencies and of the judiciary should also receive education on the occurrence of such abuses and the ways in which they can be counteracted.

Social measures, development assistance

11. It is recognized that these practices are often linked to poverty, and that long-range structural reforms in the social and economic fields will be required for their prevention. In the shorter run, development activities of the United Nations and other international as well as national agencies should have a substantive and positive impact on children. Priority should be given to policies aimed at improving the social, economic and working conditions of women in general and of the poorest women in particular. Local community projects, including collective self-help projects by vulnerable mothers, should also be encouraged.

12. The needs of children exposed to sexual exploitation should be taken into account in development plans and assistance. Special attention should be given to certain groups of street children and children whose mothers are engaged in prostitution. Governments and non-governmental organizations should be encouraged to initiate projects designed to protect street children from sexual abuse (e.g. small-scale enterprise projects for children, "safe houses", emergency centres, etc.). Efforts should also be made to reunite street children in cities with their families in rural areas.

Legal measures and law enforcement

13. Preventive legislation aimed at protecting children should be strengthened and better enforced. Police, courts and treatment and support systems should focus more on children. Legal aid should be easily available to those who claim to have been sexually violated and to parents or legal guardians in cases of sale of children. Methods should be developed to obtain evidence from the child without further traumatization, and witnesses should be afforded protection.

14. Sexual abuse and traffic in children are serious crimes and must be treated as such. More severe penalties should be imposed on consumers and procurers.

15. Effective legislative and enforcement measures must also be directed against the middlemen and others who encourage and make a profit from sale and sexual exploitation of children: agents, dealers, brothel-owners, and others involved. The proceeds from such activities should be confiscated.

16. The draft Convention on the Rights of the Child, when adopted, provides protection against sale of children and sexual exploitation. States are encouraged to become parties to the Convention at the earliest possible moment. For its implementation within States, national institutions, with representatives of public agencies and private organizations, might be established to co-ordinate action and to protect children and their rights.

Rehabilitation and reintegration

17. Programmes for rehabilitation and reintegration with an interdisciplinary approach should be established to assist children who have been victims of sexual exploitation, and their families. Agencies implementing such programmes, whether public or non-governmental, should be given the necessary support and funding.

International co-ordination

18. Bilateral and multilateral co-operation among law enforcement agencies is essential. States should establish their own data base, improve their reporting at all levels, and report to Interpol to allow for a special data bank on suspects involved in such abuses across borders. The experience gained in international police co-operation in combating drug traffic should be made use of to prevent international traffic involving the sale and sexual exploitation of children.

B. SALE OF CHILDREN

19. States should be encouraged to take effective legal and administrative measures to prevent the abduction and sale of children. Laws should be adopted or strengthened which impose penalties on parents and on all others knowingly involved in the traffic of children.

20. Measures should be taken to ensure that international adoptions do not involve the illicit removal of children from parents. Procedures for this purpose should be based on the 1986 United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption Nationally and Internationally, and the Convention on the Rights of the Child when adopted. Under no circumstances must adoption be allowed to involve financial gain for any of the parties involved.

21. States should adopt effective and urgent procedures at the national level and through international co-operation to find abducted, unlawfully removed or disappeared children and to reunite such children with their families.

C. CHILD PROSTITUTION

22. Legislative and other measures should be taken to prevent sex tourism. Such measures should be adopted both in the countries from which the customer comes (most often the industrialized countries) and the countries to which they go (often to developing countries). Marketing tourism through the enticement of sex with women and children should be penalized on the same level as procurement.

23. The World Tourism Organization should be encouraged to convene a world conference on ways in which to prevent such practices.

24. States having military bases or troops on foreign territories, as well as host States, should take all the necessary measures to prevent such military personnel from being involved in child prostitution. The same applies to other categories of persons who for professional reasons are posted abroad.

25. Legislation should be adopted to prevent new forms of technology from being used for soliciting for prostitution.

D. CHILD PORNOGRAPHY

26. Taking into account, as stated at the Interpol symposium in September 1988, that child pornography is the permanent visual depiction of the sexual molestation and exploitation of a child, and that there is an international market for this material, law enforcement agencies should place a higher priority on the investigation of child pornography with particular emphasis placed on the welfare of the child.

27. States are urged to enact legislation, where they have not yet done so, making it a crime to produce, distribute or possess pornographic material involving children.

28. Postal and customs services should be required to detect and prevent the transmission of material containing child pornography. Special attention has to be paid to new technology for producing pornography, including video films.

29. States should be encouraged to protect children from exposure to adult pornography through suitable legislation and appropriate measures of control.